IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

Writ Petition No.3l5 of 2005

Shankar Sahadev Waghmare.. petitioner
vs
Jawaharlal Nehru Inst of Edn
Science and Technology
Research & ors ... respondents

Mr. Shetty for M M Vashi for petitioner
Mr. Madhav Jamdar for respondent no.l
Mr. R.D.Rane GP for respondent no. 4

with

Writ Petition No.4726 of 2005
Jawaharlal Nehru Inst of Edn
Sciecne and Technology
Reserach and ors... petitioners
vs
University of Mumbai and ors.. respondents

Mr Madhav Jamdar for petitioner
Mr R.D.Rane GP for respondent 2
Mr. Shetty for M P Vashi for respondent no. 3

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ.

Dated 4.8.2005

P.C:

. Rule is issued on both petitions. Learned advocates for respective respondents waive service. By consent, rule is made returnable forthwith.

2. These two petitions are in the nature of cross petitions arising out of a report of the Grievance Committee of Mumbai University dated 20.2.2004. Writ Petition No. 3l5 of 2005 is preferred by the petitioner seeking directions to State Government

and the University to implement the report of the Grievance Committee whereas Writ Petition No.4726 of 2005 is preferred by the respondent institution challenging the said report of the Grievance Committee. The petitioner in Writ Petition No.3l5 of 2005 is working as a lecturer in respondent no.2 college run by respondent no.l Institute with effect from 4.2.l997 and is a permanent employee of the respondent no.2 college. The petitioner approached the Grievance Committee of the Mumbai University making a grievance that he was not paid the arrears of Vth Pay Commission and the scale of pay from august 2000 to December 2000, that he was not paid the arrears of D.A difference due according to the IVth Pay Commission from February l997 to July 2000 and further according to Vth Pay Commission from l.l.200l till date, that Government directions with regard to implementation of allowance like LTC,book allowance etc was not done from February l997, that he was not given the senior instructor's scale on upgradation, though he had put in 7 years of service.

3. The Grievance Committee after granting opportunity of personal hearing to the parties inter alia held as follows:

"resolved that the grievances of Shri Waghmare are genuine and need to be addressed and fulfilled at the earliest as per the prevalent rules and regulations.The Committee advised the Principal to prevail upon the Management of not taking any kind of undertaking from Shri Waghmare which other wise may prevent the natural right of the complainant to address his grievance at appropriate authority.

In the light of the above recommendation made by the Grievance Committee and accepted by the Management Council, I am to request you to kindly take necessary action in implementing the recommendation in respect of the grievance submitted by Shri Shankar S Waghmare. Lecturer in instrumentation Engineering of your college and submit the compliance report to the University in that behalf within a period of one month from the receipt of this letter".

4. The report of the Grievance Committee has been accepted by the Management Council in its meeting dated l7.4.2004 and the Institute has been called upon to pay the dues of the petitioner as per the

report of Grievance Committee. The only defence of the Institution is that there are complaints against the petitioner and therefore the Institution proposed to take action against the petitioner. It is therefore contended that the Grievance Committee had no jurisdiction to deal with the grievance of the employee . In support reliance is placed on the observations in para 63 of the judgement of the ll Judge Bench of the Supreme Court in T.M.A.Pai Foundation (2002) 8 SCC 48l. We find absolutely no merit in the defence raised by the college. The Grievance Committee is not concerned with the disciplinary action proposed to be taken by the Institution against the employee. The Grievance Committee has merely reported that the grievance of the employee is genuine and he is entitled to increments as per the IVth and Vth Pay Commissions. If the Institution desires to take any disciplinary action against the petitioner it is free to do so in accordance with law. However, there is no justification on the part of the Institution to withhold the increments which are legally due to the petitioner in accordance with the relevant rules and regulations. We therefore direct the Institution to implement the report of the Grievance Committee within a period of 8 weeks from today and pay arrears with

interest at the rate of 9% p.a from the date of the report of the Grievance Committee. The Dy Registrar of the Mumbai University is directed to calculate the arrears as per the recommendation of the Grievance Committee and communicate the same to the Institution within four weeks from today. Both the petitions stand disposed of.